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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,225	09/02/2004	Lidvar Budal	LUKP:115US	5224

24041 7590 02/23/2005  
SIMPSON & SIMPSON, PLLC  
5555 MAIN STREET  
WILLIAMSVILLE, NY 14221-5406

EXAMINER
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LORENCE, RICHARD M

ART UNIT	PAPER NUMBER
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3681

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/711,225

Applicant(s)

BUDAL ET AL.

Examiner

Richard M. Lorence

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is the first Office action on the merits of Application No. 10/711,225 filed on September 2, 2004. Claims 1-17 are currently pending.

#### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on March 7, 2002. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b).

#### ***Drawings***

The drawings are objected to because in Figure 1 the schematic representations of the partial transmissions should be labeled "iA" and "iB", respectively in order to be consistent with the description at for example line 2 of paragraph [0025], as well as the reference numerals employed in the claims and abstract.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the reference signs E, E1, E2, A1 and A2 mentioned in paragraph [0024] of the description.

Further the "output shaft A" mentioned at line 8 of paragraph [0024] is not labeled in Figure 1, however it is noted that the reference character "A" has also been used to denote the first clutch.

The showing of the sensing point adaptation in Figure 2 is not entirely clear. As best understood from the description at paragraph [0033], the routine does not proceed from "Strategy 1" (corresponding the possibility 3) to "Strategy 2" (corresponding the possibility 4). Instead, it appears from the description that these are two different possible procedures for carrying out the adaptive control, i.e. two different species of the method which should be shown in two different flowcharts.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the method recited in claims 2-8 and 12-14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Note that the method shown in the flowchart of Figure 2 is carried out only if the vehicle is stationary and at least one gear is engaged. Claims 2-4 and 10 are directed to a method performed while the vehicle is traveling. Claim 4 is directed to a method performed while no gear is engaged. It is not clear how the flowchart can be considered to show the disengagement and re-engagement of the gears as specified in claims 5-8. It is not clear how the flowchart can be considered to show the simultaneous zero correction as recited in claim 12. It is not clear how the flowchart can be considered to show both the successive sensing point adaptation as recited in claim 13, and the simultaneous sensing point adaptation as recited in claim 14.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:

Assuming that the units of measurement of torque referred to at line 8 of paragraph [0018] and line 7 of paragraph [0023] are expressed in terms of Newton-meters, the amount of torque should be stated should be stated as 3-4 N-m, rather than 3-4 nm which is a measure of distance expressed in nanometers.

The clarity of the description would be greatly improved if the description were amended to refer to the various steps in the flowchart shown in Figure 2.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-16 fail to point out the active method steps involved in performing the method, e.g. *carrying* out a zero correction, *determining* that the vehicle is traveling, *determining* that a gear is disengaged, etc.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Tscheplak et al. '504 in view of Kono et al. '849.

The '504 patent to Tscheplak et al. discloses a twin clutch system including a first clutch 6 and a first partial transmission 24 in a first branch, and a second clutch 7 and a

second partial transmission 25 in a second branch. The first and second clutches are operated by respective first and second actuating mechanisms 16, 16'. Tscheplak et al. does not disclose the zero correction of the clutch actuating mechanisms.

Kono et al. teaches an adaptive zero correction method for a motor vehicle clutch actuator. It would have been obvious to apply the teaching of Kono et al. to a twin clutch system of the type disclosed by Tscheplak et al. in order to ensure that a change in the feel of the vehicle caused by clutch wear is eliminated as suggested by Kono et al. at column 6, lines 65-68.


#### ***Prior Art Citation***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The examiner further cites Otsuka et al. '851, Kohno et al. '174 and Smedley '274 which disclose methods of controlling a clutch actuator; and Beneton et al. '456, Buchanan et al. '997 and Preisner et al. which disclose twin clutch systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard M. Lorence whose telephone number is (703) 308-3062. The examiner can normally be reached on Mondays through Fridays from 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (703) 308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Richard M. Lorence  
Primary Examiner  
Art Unit 3681

Lorence/rml